

**ENTERED**

September 29, 2017

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION

JING GAO, *et al*,

Plaintiffs,

VS.

BLUE RIDGE LANDFILL TX, LP,

Defendant.

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CIVIL ACTION NO. 3:16-CV-323

**FIRST AMENDED DOCKET CONTROL ORDER**

This case will be controlled by the following schedule. The schedule will proceed in two stages. The first stage will focus on discovery and briefing related to the issue of class certification. The second stage will focus on the merits of Plaintiffs' claims.

**DEADLINES**

**STAGE I: CLASS CERTIFICATION STAGE**

1. July 2, 2018 **MOTION TO CERTIFY CLASS** The party seeking certification will file a motion and supporting memorandum by this date.

Defendant's Opposition to Class Certification to be filed by August 13, 2018.

Plaintiffs' Reply brief to be filed by September 4, 2018.

2. January 18, 2018 Identification of plaintiffs' experts and production of experts' reports on the issue of class certification in the form required by Fed. R. Civ. P. 26(a)(2)(B).

At the time of service, Plaintiffs shall provide Defendant with five (5) alternative deposition dates between February 1, 2018 and March 22, 2018. Defendant must complete all depositions of class certification experts by March 22, 2018.

3. April 16, 2018 Identification of Defendant's experts and production of experts' reports on the issue of class certification in the form required by Fed. R. Civ. P. 26(a)(2)(B).

At the time of service, Defendant shall provide Plaintiffs with five (5) alternative deposition dates between April 30, 2018 and June 11, 2018. Plaintiffs must complete all depositions of class certification experts by June 11, 2018.

4. January 4, 2018 **COMPLETION OF DISCOVERY ON CLASS CERTIFICATION ISSUES (EXCEPTING EXPERT DEPOSITIONS)** Written discovery requests are not timely if they are filed so close to this deadline that the recipient would not be required under the Federal Rules of Civil Procedure to respond until after the deadline.

5. N/A **LIMITS ON DISCOVERY ON CLASS CERTIFICATION ISSUES** During the class certification phase, discovery shall be limited to issues that are potentially relevant for the Court to determine whether this case may be maintained as a class action. All other discovery is stayed until the Court rules on Plaintiffs' motion for class certification.

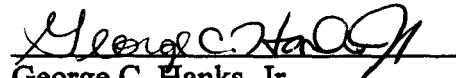
6. The Parties have agreed to postpone the mass harvesting and production of electronically stored information ("ESI") until after the Court rules on Plaintiffs' motion for class certification, with limited exceptions. Specifically, the Parties have agreed to the harvest of electronic communications or electronic documents regarding or referencing odor complaints, odor emissions, odor investigations, and any electronic communications or electric documents related to this class action litigation, that are not protected by the attorney-client privilege, and are based on a harvest of electronic documents of specific custodians, between specific dates, and an electronic search of those emails for specific keywords to be agreed between the parties, followed by a review of the resulting electronic documents for inclusion within these categories.

The Parties have also agreed to expand the number of depositions of fact witnesses that each party may take under Fed. R. Civ. P. 30 and 31 from 10 to 25. The Parties agree and acknowledge that this limitation is not intended to include or pertain to expert depositions.

**STAGE II: MERITS STAGE**

A supplemental Docket Control Order for the merits stage of the litigation will be developed after the Court's ruling on class certification.

Signed in Galveston, Texas this 29<sup>th</sup> day of September, 2017.

  
George C. Hanks, Jr.  
United States District Judge